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ADR

ORIGINAL FILED

FEB 13 2008

Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

9 Liju WENG

10 Plaintiff,

11 vs.

12 MICHAEL CHERTOFF, Secretary of the
13 Department of Homeland Security;
14 ROBERT S. MUELLER,
15 Director of Federal Bureau of Investigation

Defendants.

) Case No.
10) C08 00931 JF
11) PETITION FOR HEARING ON
12) NATURALIZATION APPLICATION
13) UNDER 8 U.S.C. § 1447(B)
14)
15) PVT

16 COMES NOW Liju WENG, Plaintiff in the above-styled and numbered cause, and for
17 cause of action would show to the Court the following:

18 1. This action is brought for a hearing to decide Plaintiff's naturalization application due to
19 Defendants' failure to adjudicate the application within 120 days after the first examination in
20 violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. §1447(b).

21 PARTIES

22 2. Plaintiff Liju WENG, a native and citizen of the People's Republic of China, is a lawful
23 permanent resident of the United States. On August 31, 2005, Plaintiff's Form N-400, Application
24 for Naturalization was received by the U.S. Immigration and Naturalization Service, or U.S.C.I.S.
25 (Exhibit 1). Plaintiff was interviewed for his naturalization application on January 27, 2006
26 (Exhibit 2). Defendants have failed to make a decision on the application within 120 days after
27 the examination.

28 3. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security

1 (DHS), and this action is brought against him in his official capacity. He is generally charged with
2 enforcement of the Immigration and Nationality Act, and is further authorized to delegate such
3 powers and authority to subordinate employees of the DHS. 8 U.S.C. §1103(a); 8 C.F.R. § 2.1.

4 4. Defendant Robert S. Mueller, III, is Director of the Federal Bureau of Investigations (FBI),
5 the law enforcement agency that conducts security clearances for other U.S. government agencies,
6 such as the Department of State. As will be shown, Defendant has failed to complete the security
7 clearances on Plaintiff's cases.

8 **JURISDICTION**

9 5. Jurisdiction in this case is proper under the INA § 336(b) and 8 U.S.C. §1447(b). Relief is
10 requested pursuant to said statutes.

11 **VENUE**

12 6. Venue is proper in this court, pursuant to 8 U.S.C. §1447(b), in that Plaintiff may request a
13 hearing on the matter in the District where Plaintiff resides.

14 **CAUSE OF ACTION**

15 7. Plaintiff is a lawful permanent resident of the United States. On August 31, 2005,
16 Plaintiff's Form N-400, Application for Naturalization was received by the U.S. Immigration and
17 Naturalization Service, or U.S.C.I.S. (**Exhibit 1**). Plaintiff was interviewed for his naturalization
18 application on January 27, 2006 (**Exhibit 2**). Defendants have failed to make a decision on the
19 application within 120 days after the examination. Plaintiff's Application for Naturalization has
20 now remained un-adjudicated for more than two years from the date of the interview.

21 8. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to
22 applicable requirements.

23 9. Defendants, in violation of 8 U.S.C. § 1447 (b), have failed to make a determination on
24 Plaintiff's naturalization application within the 120-day period after the date of examination.

25 **PRAYER**

26 10. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff
27 respectfully prays that the Defendants be cited to appear herein and that, upon due consideration,
28 the Court enter an order adjudicating the naturalization application. In the alternative, the Court

1 may remand requiring Defendants to immediately adjudicate Plaintiff's naturalization application.
2 In addition, Plaintiff requests an award of reasonable attorney's fees under the Equal Access to
3 Justice Act and such other relief at law and in equity as justice may require.

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5 Dated: February 11, 2008

Respectfully submitted,

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8 Justin X. Wang, Esq.
9 Attorney for Plaintiff
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2 **LIST OF ATTACHMENTS**
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<i>Exhibit</i>	<i>Description</i>
1	N-400 Receipt Notice
2	N-652, Naturalization Interview Results

Exhibit 1



Receipt			NOTICE DATE: September 08, 2005
CASE TYPE: N400 Application For Naturalization		INS A#: A 047 176 284	PAGE: 1 of 1
APPLICATION NUMBER: WSC#001373357	RECEIVED DATE: August 31, 2005	PRIORITY DATE: August 31, 2005	PAYMENT INFORMATION:

APPLICANT NAME AND MAILING ADDRESS

LIJU WENG
c/o HILDA ZHANG
1125 KELSEY DR
SUNNYVALE CA 94087

Single Application Fee: \$390.00
Total Amount Received: \$390.00
Total Balance Due: \$0.00

XXXXXXXXXXXXXX

The above application has been received by our office and is in process. Our records indicate your personal information is as follows:

Date of Birth: March 30, 1933
Address Where You Live: 4636 NILAND ST
UNION CITY CA 94587

Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.

You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 365 days of this notice.

If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.

If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.

If you have access to the Internet, you can also visit INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

INS Office Address:

US IMMIGRATION AND NATURALIZATION SERVICE
CALIFORNIA SERVICE CENTER
P.O BOX 10400
LAGUNA NIGUEL CA 92607-

INS Customer Service Number:

(800) 375-5283

APPLICANT COPY



Exhibit 2

Department of Homeland Security
U.S. Citizenship and Immigration Services

N-652, Naturalization Interview Results

A#:



On 11/12/2008, you were interviewed by USCIS officer RJ/E A047176284 A047176284

- You passed the tests of English and U.S. history and government.
- You passed the tests of U.S. history and government and the English language requirement was waived.
- USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- You will be given another opportunity to be tested on your ability to _____ speak/ _____ read/ _____ write _____ English.
- You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- Please follow the instructions on Form N-14.
- USCIS will send you a written decision about your application.
- You did not pass the second and final test of your _____ English ability/ _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.
 - A) _____ Congratulations! Your application has been recommended for approval. At this time it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.
 - B) A decision cannot yet be made about your application.

It is very important that you:

- Notify USCIS if you change your address
- Come to any scheduled interview.
- Submit all requested documents.
- Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- Go to any Oath Ceremony that you are scheduled to attend.
- Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

PENDING FOR
SECURITY CHECKS

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS had not made a determination on your application within 120 days of the date of your examination.